

Florence, New Jersey 08518-2323
June 24, 2014

The regular meeting of the Florence Township Planning Board was held on the above date at the Municipal Complex, 711 Broad Street, Florence, NJ. Chairperson Hamilton-Wood called the meeting to order at 7:30 p.m. followed by a salute to the flag.

Chairperson Hamilton-Wood then read the following statement: "I would like to announce that this meeting is being held in accordance with the provisions of the Open Public Meetings Act. Adequate notice has been provided and posted in the main hall of the Municipal Complex."

Upon roll call the following members were found to be present:

Chairperson Hamilton-Wood	Tim Lutz
James Molimock	Wayne Morris
Mayor Craig Wilkie	Councilman Ted Lovenduski
Thomas McCue	William Federico

ALSO PRESENT: Solicitor David Frank
 Engineer Doug Szabo
 Planner Barbara Fegley

ABSENT: Ray Montgomery

RESOLUTIONS

- A. Resolution PB-2014-10 granting the application of G&B Business Associates, Inc. for Preliminary and Final Major Site Plan approval with bulk variances to Permit demolition of existing fueling station and construct a gasoline canopy, diesel canopy and convenience store along with parking, landscaping and other improvements on property located at 2012 US Highway 130 North.

It was the Motion of Lutz, seconded by Federico to approve Resolution PB-2014-10. Upon roll call the Board voted as follows:

YEAS: Lutz, Federico, Hamilton-Wood, Molimock, Morris, Wilkie, McCue
NOES: None
ABSENT: Montgomery

MINUTES

CORRESPONDENCE

- A. Letter from Burlington County Planning Board dated May 1, 2014 regarding 1000 John Galt Way, Block 158, Lots 7 & 8.

B. Revision of 2014 Meeting Schedule of Boards/Commissions

It was the Motion of Lutz, seconded by Lovenduski to receive and file correspondence A and B. All ayes.

INFORMAL PRESENTATION

Possible subdivision with bulk variances for property located at 1270 Emerick Avenue, Roebbing. Block 144, Lots 9 and 16. Presented by property owner Paul Konrad and Jonas Singer, Esq.

Chairperson Hamilton-Wood welcomed Mr. Singer and Mr. Konrad. Mr. Singer said he wanted to provide some background. Maps were provided to the board. Mr. Konrad built a deck and small shed and he was over the impervious coverage allowance. It was suggested that the lot behind his, that he owns, be included in the application so that the land area would all be considered to avoid the variance application. He was not sure why the deck was considered impervious since there are slats in the deck and the ground is available for drainage. At that time it was considered to be impervious. Unfortunately what happened was that the lots were consolidated; they merged. The tax map shows it as one lot. Mr. Konrad has history with variance applications because he inherited his dad's two lots next door and when there was a need for a variance the construction official used both of the lots in the computations and there was no need for the variance. There was no consolidation of those lots. The applicant would like to subdivide to recreate the two separate lots. It will require variances on both lots, one for the existing shed and deck and one for constructing a single family home on the other lot. The lots that would be created would fall into the existing zoning scheme of the neighborhood. There are many lots smaller in size than what is being proposed. It would require some variance relief for front yard and side yard setbacks. Mr. Singer wanted to know how the board felt, since Mr. Konrad used both lots in the prior application to avoid a variance.

Chairperson Hamilton-Wood asked Mr. Singer if he reviewed the correspondence from the prior application. She referred to an April 14, 2011 letter and a July 15, 2011 letter. Mr. Singer said he saw the July 15 letter. Chairperson Hamilton-Wood said she had a copy of the tax map and it does show that Mr. Konrad's father's lots are consolidated. Mr. Singer asked when they were consolidated. Chairperson Hamilton-Wood did not know. She noted the April 14 letter and another letter dated May 5, 2011 seem pretty clear that there was going to be consolidation of the lots. Mr. Singer said there was a meeting with the professionals, William Kearns, Esq., Assistant Administrator Sahol, and Solicitor Frank. Mr. Konrad taped the meeting. Mr. Singer said he listened to it and there was never any mention made to Mr. Konrad that the lots would be consolidated.

Chairperson Hamilton-Wood said the July 15 letter seemed pretty clear. Mayor Wilkie noted the May 5 letter was clear as well. He referred to the second paragraph. "If you adjoin the two parcels by deed your application will be examined using a larger land area and thus you will not have to seek an impervious surface variance." Mr. Singer said

because there is an ordinance that prevents the lots from merging, Mr. Konrad was under the impression that those lots would not merge even though the lot area was used in the computation. Chairperson Hamilton-Wood said the July 15 letter stated “will be consolidating your two lots into one block and lot in the next tax map update.” She thinks it is very clear.

Mr. Konrad was sworn in by Solicitor Frank. He said at the end of the meeting with the professionals he was told by Assistant Administrator Sahol that he now had nothing to worry about; the lots would be protected in the future. Chairperson Hamilton-Wood asked if he read the letter he received. He said he did, and he called Assistant Administrator Sahol to find out what was going on, and Assistant Administrator Sahol called him back in a panic saying Mr. Kearns wasn’t getting back to him. Mr. Konrad said he waited a month then called again. What happened was those letters came within one day of each other. Mr. Konrad said he told them it is not what he agreed to at all. He received a letter from Mr. Kearns that was conflicting with the one from Assistant Administrator Sahol.

Chairperson Hamilton-Wood said he knew it was not what he agreed to but he still went forward. He claimed that lots 7 and 8 were consolidated after he had his application. He called the Tax Assessor and asked if he could tell when the two lots that belonged to his father were consolidated. The assessor told him lots 7 and 8 were consolidated in late 2012 or early 2013. Mr. Konrad gave the information to Mr. Singer and Mr. Singer told him the Township wasn’t going to do anything in 2006 and they didn’t consolidate the lots or ask for a deed of consolidation like Mr. Frank wanted for the second application. He was pressing Assistant Administrator Sahol early on to tell Mr. Konrad to provide one. Chairperson Hamilton-Wood asked Mr. Konrad what the subject was; was it lots 9 and 16? Mr. Konrad said lots 9 and 16 are the topic, but he is asking that the town be consistent. In 2006 Mr. Brook handled this totally differently than what Assistant Administrator was doing. From the beginning Assistant Administrator Sahol was quite adversarial to him. He didn’t know why. In the beginning when he first denied the application he wrote on the application “impervious surface, poss. subdiv.” He said he could not figure it out. He asked himself why it was being denied. He said his father’s lots 7 and 8 that he bought in 1999 were not combined in 2006 when he put the application. Mr. Brook and Engineer Dan Guzzi both did calculations on lots 7 and 8 and there was no mention that there needed to be a deed of consolidation. Mr. Frank was telling Assistant Administrator Sahol to do a deed of consolidation for lots 9 and 16 in 2011.

At this point Chairperson Hamilton-Wood said that Mr. Brook could be called in to provide testimony but this was hearsay. Solicitor Frank concurred. He explained it is hard for Mr. Konrad to tell the board what someone else said and for the board to rely on it. Chairperson Hamilton-Wood said the discussion was not part of the application.

Mr. Singer said it was what Mr. Konrad understood the process to be. Solicitor Frank asked if Mr. Konrad, based on the letters he received that said things he didn’t think were right, proceed to pull a building permit and build a deck that would have otherwise

required a impervious surface hearing. Mr. Singer said the deck was pre-existing. Chairperson Hamilton-Wood said the deck was not pre-existing, it was up and then Mr. Konrad had to get the permit after. Mr. Konrad said he did that on his own, he said he was going to tell the township that he put that deck up and he was responsible for that deck and the shed.

Solicitor Frank said it is not pre-existing in the sense that it was from a prior approval of the board. That what the board thinks of as a lawfully pre-existing deck. He said Mr. Konrad proceeded to make them lawful by getting a permit and received the July 15 letter and let it lie. He didn't come and see the town or send a letter saying the letter was incorrect. He asked if Mr. Konrad went to the tax assessor when he got the tax bill to tell him the information was not correct. Mr. Konrad said that was the purpose of the meeting on June 15, 2011, and Mr. Frank was there. Chairperson Hamilton-Wood asked if he received the letter after the meeting, and think it was not what he understood, did he do anything to correct it Mr. Konrad said he didn't want to have another meeting.

Chairperson Hamilton-Wood said she was not sure what Mr. Konrad was asking the board with this informal hearing. She said there needs to be a subdivision. It doesn't matter how it got to that point. She did not feel the information provided was pertinent to the board. Mr. Singer said the subdivision request would require variance relief. Part of the relief is the setbacks. Chairperson Hamilton-Wood said it appears the purpose of the informal hearing was to hear the history. Mr. Singer said it was to determine if the history would have a negative impact on the board's consideration.

Solicitor Frank said there was no equitable power in the board. If they were judges in superior court they could look at it globally and say, maybe there is something about that, but the board doesn't have that authority. The board can only grant variances of the standards applicable to the zones. It has to be an existing hardship or it has to be a better zoning alternative. Whatever the history is, the fact is that from the town's perspective, here we are. It was merged. The only thing the board has the legal authority to look at is the variance criteria.

Mr. Singer asked if when he moves the application forward, would the history of the prior application come up. Solicitor Frank said there would need to be new variances for the lots. The larger issue from that particular item is the general bulk standards. It is starting over. Chairperson Hamilton-Wood agreed, she does not think any of the information from tonight pertains to a new application.

Mr. Singer said Mr. Konrad will submit an application and follow the process for variances.

OTHER BUSINESS

PUBLIC COMMENTS

38.

It was the Motion of Lutz, seconded by Federico, to open the meeting to the public. Seeing no one wishing to be heard, it was the Motion of Lutz, seconded by Federico to close public comments. All ayes.

Motion of Lutz, seconded by Morris to adjourn at 8:02 p.m.

Wayne Morris, Secretary

WM/ak